

Exhibit 29

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
MDL-NO. 16-2738 (FLW)(LHG)

IN RE: JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS ORAL DEPOSITION OF:
MARKETING, SALES PRACTICES, DANIEL L.
AND PRODUCTS LIABILITY CLARKE-PEARSON, MD
LITIGATION VOLUME 2

* * * *
FRIDAY, AUGUST 27, 2021
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EXHIBITS

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1 being prevented, it just can't keep up with things.
2 **Q. And do we know with talc one way or the**
3 **other which way it is? Like the body can't repair or**
4 **can't repair fast enough or what the story is?**

5 MS. THOMPSON: Objection.

6 THE WITNESS: We don't know.

7 BY MS. BROWN:

8 **Q. Because the truth is, we have mutated**
9 **genes all the time that our body is able to kill off**
10 **and deal with, right?**

11 A. We have mutations, I'm not sure they're
12 mutated genes.

13 **Q. Okay. Our cells, as a normal part of**
14 **just being alive, mutate and our body is able to**
15 **force those cells to die so that they don't harm us,**
16 **right?**

17 MS. THOMPSON: Object to form.

18 THE WITNESS: Yes. And one of the
19 pieces of data that we do know is that talcum powder
20 reduces apoptosis, which is what forces cells to die.
21 The cells that are abnormal, that are mutated. So
22 talcum powder has been demonstrated to decrease
23 apoptosis.

24 BY MS. BROWN:

25 **Q. And what study is that?**

1 **about in Ms. Converse's case, is it possible for you,**
2 **when you did your analysis of Ms. Converse's case, to**
3 **know when the malignant transformations due to her**
4 **family history of breast cancer began?**

5 MS. THOMPSON: Objection.

6 THE WITNESS: The malignant
7 transformation with regard to that specific --

8 BY MS. BROWN:

9 **Q. Risk factor.**

10 A. -- risk factor, that specific cause,
11 that one mutation that she may have hypothetically.
12 We don't -- there is no demonstrated mutation in this
13 patient's case. We're talking family history. But
14 if there was a mutation, that's one mutation that she
15 already has. She inherited that mutation. It didn't
16 happen later, it happened when she was --

17 **Q. Born --**

18 A. Even before she was born, so...

19 **Q. Okay. So if you think about ovarian**
20 **cancer sort of as this continuum where a woman needs**
21 **to develop 5 to 10 mutations to present with ovarian**
22 **cancer, what you're saying is some causes of ovarian**
23 **cancer, like a family history, a genetic mutation,**
24 **could cause a woman to essentially be born already**
25 **some way along that continuum because she's born with**

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1 A. This would be the Fletcher study.

2 **Q. Okay. We'll talk about that.**
3 **Have you reviewed the literature that**
4 **talc induces apoptosis of malignant cells and not**
5 **normal cells?**

6 MS. THOMPSON: Objection.

7 THE WITNESS: Apoptosis of cells that
8 are damaged that could go on to become malignant,
9 yes.

10 BY MS. BROWN:

11 **Q. So there is actually data that shows**
12 **the talc doing a good thing when it comes to**
13 **malignant cells, right? The talc is actually pausing**
14 **apoptosis of the malignant cells, right?**

15 MS. THOMPSON: Objection.

16 THE WITNESS: No, if that's your you're
17 understanding, that's not what I'm saying.

18 BY MS. BROWN:

19 **Q. Okay.**
20 **Have you seen that literature where**
21 **talc is inducing apoptosis of only malignant cells?**

22 A. I've not seen that literature.

23 MS. THOMPSON: Objection.

24 BY MS. BROWN:

25 **Q. So getting back to what we were talking**

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1 **the mutation, correct?**

2 A. She would have one of those mutations,
3 yes.

4 **Q. Is there a mutation that you believe a**
5 **woman could be born with that already gets her to the**
6 **5 to 10?**

7 **Meaning, does science know of a**
8 **mutation which a woman is born with that can already**
9 **ensure that she's going to get ovarian cancer?**

10 MS. THOMPSON: Objection.

11 THE WITNESS: No, I'm not aware of any
12 of that.

13 BY MS. BROWN:

14 **Q. We were talking hypothetically about**
15 **Ms. Converse, but you would agree -- let's talk**
16 **concrete, though, about her now.**

17 **You would agree talc is a cause,**
18 **correct?**

19 A. Yes.

20 **Q. You would agree family history of**
21 **breast cancer is a cause?**

22 A. I think it's a possible cause.

23 **Q. And you would agree other -- another**
24 **factor or another factors were a cause of her clear**
25 **cell cancer?**

1 MS. THOMPSON: Objection.
2 THE WITNESS: No, I can't give an
3 opinion about the exact percentage, if you will, or
4 assign an exact weight to each one of the those.
5 BY MS. BROWN:
6 **Q. You noted in your Newsome report that**
7 **Ms. Newsome was diagnosed with a variant of**
8 **undetermined significance, the MUTYH gene, correct?**
9 A. That's correct.
10 **Q. And you indicate in your report that**
11 **that is not a clinically significant finding, right?**
12 A. Yes.
13 **Q. What do you mean by that?**
14 A. There is no evidence in the literature
15 that I was able to identify, nor is there any
16 evidence in the National Cancer Center data base,
17 ClinVar, that that particular VUS has been reported
18 to be associated with any cancers, including ovarian
19 cancer.
20 **Q. I want to show you what we'll mark as**
21 **Exhibit 36 to your deposition, which is an article**
22 **from your updated reliance list by Dr. Hutchcraft, et**
23 **al.**
24 (Exhibit 36, article by Dr. Megan
25 Hutchcraft from updated reliance list, is marked for

1 A. Yes, between BRCA and Lynch syndrome.
2 **Q. Okay. And they go on to say that:**
3 **Although mutations in the MUTYH gene are best known**
4 **for MUTYH-associated polyposis and colorectal cancer,**
5 **it plays a role in the development of ovarian cancer.**
6 **Do you see that?**
7 A. That's what I see.
8 **Q. They go on to say that in the review**
9 **they discuss the function of the gene, the**
10 **epidemiology and the mechanism for carcinogenesis,**
11 **right?**
12 A. Yes.
13 **Q. And they examine the emerging role in**
14 **the development of ovarian cancer and how this**
15 **mutation may confer risk of ovarian cancer by the**
16 **failure of its well-known base excision repair**
17 **mechanisms or by failure to induce cell death, right?**
18 A. Yes.
19 **Q. And they say that a germline mutation**
20 **of this MUTYH gene confers a 14 percent risk of**
21 **ovarian cancer by age 70, right?**
22 A. Yes.
23 **Q. And do you agree with this article that**
24 **the MUTYH gene has been associated with an increased**
25 **risk of ovarian cancer?**

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1 identification)
2 BY MS. BROWN:
3 **Q. Doctor, we've handed you what we've**
4 **marked as Exhibit 36 to your deposition, an article**
5 **by Dr. Megan Hutchcraft and others titled MUTYH as an**
6 **Emerging Predictive Biomarker in Ovarian Cancer.**
7 **Do you see that?**
8 A. Yes.
9 **Q. And do you recall listing this article**
10 **as one of your supplemental reliance materials?**
11 A. Yes, I did. It was one of the articles
12 I reviewed in preparation.
13 **Q. Let's take a look at the abstract of**
14 **this article.**
15 **It begins by saying that approximately**
16 **18 percent of ovarian cancers have an underlying**
17 **genetic predisposition and many of the genetic**
18 **alterations have become intervention and therapy**
19 **targets.**
20 **Do you agree with that?**
21 A. I agree that you're reading it
22 correctly, yes.
23 **Q. But do you agree generally that**
24 **somewhere between 15 and 20 percent of ovarian**
25 **cancers have a known genetic predisposition?**

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1 MS. THOMPSON: Objection.
2 THE WITNESS: I do, but it has nothing
3 to do with this particular case.
4 BY MS. BROWN:
5 **Q. And why is that?**
6 A. Because this patient doesn't have a
7 gene mutation, she has a single nucleotide variant,
8 which is not a mutation.
9 **Q. So explain to me the difference.**
10 **Does she have germline testing that did**
11 **not show a germline mutation of this MUTYH?**
12 A. It shows a variant, it does not show a
13 mutation.
14 **Q. So explain to me how you know the**
15 **difference --**
16 A. The variant --
17 **Q. -- based on her testing.**
18 A. So a gene mutation is more than just
19 one nucleotide change in all cases. And so there are
20 specific variants. And if you look at this ClinVar
21 or if you look at her genetic report, there is a
22 specific description with a series of numbers
23 describing where along the gene this variant is
24 found.
25 **Q. Okay.**

1 testimony about the tubal ligation in 1988 was not
2 accurate based on your independent review of the
3 medical records, correct?

4 MS. THOMPSON: Objection.

5 THE WITNESS: I relied on the medical
6 record for that in that case. I didn't have any
7 medical records with regard to her talc use, so I had
8 to rely on what she said in deposition.

9 BY MS. BROWN:

10 Q. Is it your approach, in evaluating
11 evidence from a Plaintiff Profile Form, a deposition,
12 medical records, to favor information that's
13 contained in medical records over information
14 contained in deposition testimony or a Plaintiff
15 Profile Form?

16 MS. THOMPSON: Objection.

17 THE WITNESS: I think I try to use
18 both. Medical records, I think, are pretty accurate.
19 They're documented more contemporaneously.

20 BY MS. BROWN:

21 Q. And if you look at page 3 of the
22 Plaintiff Profile Form under medical history,
23 Ms. Rausa was asked if she ever had a tubal ligation
24 and she said yes, right?

25 A. Yes. Um-hum.

1 takes a long time to develop, right? Because you
2 would agree that one of the things that's critical in
3 evaluating the complete picture is having an
4 understanding of what was going on with these women's
5 medical histories for as far back in time as
6 possible, right?

7 MS. THOMPSON: Objection.

8 THE WITNESS: Yes.

9 BY MS. BROWN:

10 Q. And one of the sort of just imperfect
11 facts of life when it comes to medical records
12 retention is that we often don't have the ability to
13 access, review and analyze medical records that go
14 back farther than 10 or 15 years, right?

15 A. That's correct.

16 Q. And you would agree that that's sort of
17 a limitation to the ability of somebody to evaluate
18 the cause of someone's cancer that we know takes a
19 really, really long time to develop, right?

20 MS. THOMPSON: Objection.

21 THE WITNESS: It could limit it, yes.

22 BY MS. BROWN:

23 Q. And as it relates to Ms. Rausa, the
24 inability to review the medical records following the
25 birth of her second son in 1988 is a limitation, in

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1 Q. And then she was asked for the date of
2 that and here, too, she said that that was 1988,
3 correct?

4 A. Yes, I see that.

5 Q. And did you, similarly, make a
6 determination that Ms. Rausa's recollection of when
7 she had a tubal ligation was inaccurate?

8 MS. THOMPSON: Objection.

9 THE WITNESS: No, I didn't say it was
10 inaccurate, I just chose to use the medical record
11 documentation in my report.

12 BY MS. BROWN:

13 Q. Okay. The difference between 2010 and
14 1988, of course, is 22 years, right?

15 A. Yes.

16 Q. Do you believe there is some
17 uncertainty in your mind as to the timing of
18 Ms. Rausa's tubal ligation?

19 MS. THOMPSON: Objection.

20 THE WITNESS: Yes, there is uncertainty
21 in my mind. I'd love to see the operative note from
22 when she actually had the tubal ligation.

23 BY MS. BROWN:

24 Q. Yeah, that's kind of the problem,
25 right, with these cases that involve a cancer that

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1 your mind, in terms of confirming the date of her
2 tubal ligation.

3 Is that fair.

4 MS. THOMPSON: Objection.

5 THE WITNESS: I'm not quite sure I
6 understand the question. If I can paraphrase, I
7 don't think we have established the exact date of her
8 tubal ligation.

9 BY MS. BROWN:

10 Q. Sitting here today at your deposition
11 in the Rausa case, do you have an opinion as to the
12 date Ms. Rausa underwent her tubal ligation?

13 MS. THOMPSON: Objection.

14 THE WITNESS: I don't.

15 BY MS. BROWN:

16 Q. Okay. And does it matter to your
17 opinion that Ms. Rausa's ovarian cancer was caused by
18 talc, does it matter to you at all whether she had
19 her tubes tied in 1988 or whether she underwent a
20 tubal ligation in 2010?

21 MS. THOMPSON: Objection.

22 THE WITNESS: I think that the 1998 --
23 I'm sorry, 1988 tubal would have reduced her risk
24 some. But she still had 20 years of exposure to talc
25 from 1968 which she testified up until allegedly she

1 **ovarian cancer?**
2 MS. THOMPSON: Objection.
3 THE WITNESS: Absolutely not polycystic
4 ovarian disease. This is a the radiologist offering
5 an opinion without full -- well, he offered an
6 opinion. It's a 62 year old women, 62 year old women
7 don't have polycystic disease. Women who have
8 ovarian cancer diagnosed a month later with cystic
9 ovaries that are malignant, it's not polycystic
10 ovarian disease. The radiologist misinterpreted it,
11 overreached his diagnostic -- what we would expect to
12 see on a report. He simply could have said there are
13 cysts.
14 BY MS. BROWN:
15 **Q. Got it.**
16 **And so there are a number of records,**
17 **as you know, from around this time period noting**
18 **polycystic ovaries, right?**
19 A. Right.
20 **Q. And as I understand your opinion, all**
21 **of those medical records are likely misreading what**
22 **ultimately is diagnosed as her cancer, is that right?**
23 A. I would have to look at each one of
24 those records.
25 **Q. Well, let's just look at one more and**

1 A. Enlarged polycystic ovaries, no solid
2 mass observed, ovaries better seen during
3 transabdominal imaging. Interesting.
4 Yes, that's what it says.
5 **Q. What's interesting about the**
6 **transabdominal part of this report?**
7 A. I would have expected that the
8 transvaginal ultrasound would have been given a more
9 clear, accurate, architectural description of the
10 ovaries.
11 **Q. Because your counsel jumped in with her**
12 **view that this is a report of the transvaginal report**
13 **that we were just looking at.**
14 **Is this a transabdominal ultrasound?**
15 MS. THOMPSON: That's not what I said.
16 MS. BROWN: Shhh.
17 THE WITNESS: Okay. They've circled
18 both transabdominal and transvaginal.
19 BY MS. BROWN:
20 **Q. Right.**
21 A. And then there is this notation by
22 somebody, and I'm not sure this is a physician, it's
23 a sonographer, so it's a non-physician sonographer
24 that's writing his or her report, which is then
25 given, I presume, to the radiologist who then

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1 **tell me how you considered this.**
2 MS. BROWN: We'll mark as 42 a medical
3 record that has the Bates number SVMCRM-9.
4 (Exhibit 42, medical record Bates
5 stamped SVMCRM-9, is marked for identification)
6 THE WITNESS: Thank you.
7 BY MS. BROWN:
8 **Q. And so this is another St. Louis --**
9 **sorry -- St. Vincent Medical Center medical record**
10 **and it's reporting postmenopausal bleeding in**
11 **Ms. Rausa, correct, under history and symptoms?**
12 A. Yes.
13 MS. THOMPSON: Objection. This is the
14 same ultrasound study.
15 MS. BROWN: Well, he's going to testify
16 about that.
17 MS. THOMPSON: Okay. I thought you
18 didn't realize you were giving us two copies of the
19 same thing.
20 Okay. You said another report, so I
21 was just...
22 BY MS. BROWN:
23 **Q. And under ovarian findings, you see the**
24 **handwritten notes here of probable polycystic**
25 **ovaries, right?**

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1 dictated or created this report.
2 **Q. Got it.**
3 A. So, I'm sorry, what is your question?
4 **Q. So my question is, in terms of this**
5 **individual's ovarian findings of probable polycystic**
6 **ovaries, are you of the same view that this is**
7 **actually just a misinterpretation of what is**
8 **ultimately diagnosed as her ovarian cancer?**
9 A. Yes.
10 **Q. And did I hear you say in terms of your**
11 **professional opinion that it would be unusual, if not**
12 **impossible, for a woman of her age to have had**
13 **polycystic ovarian syndrome?**
14 MS. THOMPSON: Objection.
15 THE WITNESS: Yes.
16 BY MS. BROWN:
17 **Q. And why is that?**
18 A. Because it's a disease, a condition of
19 premenopausal women and Ms. Rausa was 62 years old
20 and clearly menopausal. We don't see polycystic
21 ovarian disease --
22 **Q. Got it. Go ahead.**
23 A. Another thing, you might note on the
24 handwritten report by the sonographer makes a
25 notation of small amount of free fluid in the pelvis,

1 A. No.
2 **Q. You were asked about whether you**
3 **believe a medical record is more credible or the**
4 **patient testimony is more credible. Would that**
5 **depend on what the event is that the woman may be**
6 **describing?**

7 MS. BROWN: Objection to the form.

8 THE WITNESS: Certainly. I think the
9 source -- I'm sorry.

10 MS. BROWN: Objection to the form.

11 THE WITNESS: I think the source, if
12 there is more than one source, then we have to
13 evaluate that. But as we just talked about, talcum
14 powder is not noted at all in the medical records in
15 these three cases, nor have I seen it in my clinical
16 experience in other medical records. So with regard
17 to talcum powder use, I have to rely on the patient
18 and her family in their depositions to establish that
19 they used talcum powder.

20 BY MS. THOMPSON:

21 **Q. And does talcum powder use tend to be**
22 **habitual, at least in Ms. Rausa's case, she used it**
23 **after every shower, versus remembering a date of a**
24 **procedure or a medical event --**

25 A. Well, I think it's easy --

1 **In Ms. Newsome's deposition, you can**
2 **pull it out or I can read it, that she reported that**
3 **the five years leading up to her diagnosis, her**
4 **weight fluctuated between 158 and 162, 63. I believe**
5 **that would be a BMI of about 29.**

6 **Is that consistent with what you**
7 **calculated her BMI at the time of diagnosis?**

8 MS. BROWN: Objection. Form.

9 And do you mind, Margaret, just reading
10 the page and lines for the record?

11 MS. THOMPSON: Sure. And in the five
12 years leading up to your diagnosis, about what was
13 your weight?

14 Answer: It fluctuated between about
15 158 and 162, 163.

16 MS. BROWN: What's the page/line?

17 MS. THOMPSON: Page 198, 13 through 15.

18 MS. BROWN: Okay.

19 THE WITNESS: I'm sorry. The
20 question --

21 BY MS. THOMPSON:

22 **Q. That would calculate to about 29, less**
23 **than 30, is that consistent with the weight that was**
24 **reported in the medical record at the time of**
25 **diagnosis?**

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1 MS. BROWN: Object to form.

2 THE WITNESS: -- just like if somebody
3 is brushing their teeth in particular, you sort of do
4 things on a routine basis. And so if I brush my
5 teeth every morning, some of these women report that
6 they used talcum powder on a routine, daily basis, as
7 this particular case is, after showering. So it's
8 just part of their routine, personal care.

9 BY MS. THOMPSON:

10 **Q. Have there ever been any**
11 **epidemiological studies, to your knowledge,**
12 **associating Nystatin use with ovarian cancer?**

13 A. None.

14 **Q. Have there ever been any**
15 **epidemiological studies associating soap with ovarian**
16 **cancer?**

17 A. I'm not aware of any.

18 **Q. In the epidemiological studies that**
19 **look at talcum powder use, that's a self-reporting**
20 **question, right?**

21 A. Yes. Just like a deposition, the
22 patient reports.

23 **Q. Right. That's what I was getting at.**

24 **I'll ask a few questions about**
25 **Ms. Newsome.**

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1 MS. BROWN: Form.

2 THE WITNESS: Yes, specifically her
3 BMI -- sorry. My notes have gotten a little bit
4 shuffled here.

5 Her BMI was 28.5. So what did you say,
6 29?

7 BY MS. THOMPSON:

8 **Q. Approximately.**

9 A. Okay.

10 **Q. And I asked if they were consistent.**

11 A. That's consistent with here -- what she
12 reported as her weight for the prior five years.

13 **Q. And 28.6 or 29 would not be considered**
14 **obese, right?**

15 A. It's not considered obese.

16 **Q. Did Ms. Newsome have a bialletic**
17 **mutation in MUTYH?**

18 A. No.

19 **Q. Is there any evidence that the VUS that**
20 **Ms. Newsome had is pathogenic?**

21 A. There is no evidence that I'm aware of
22 in the medical literature, and especially with the
23 ClinVar gathering of data from many sources, there is
24 no reported cases of ovarian cancer associated with
25 that. It's not really a mutation, it's a variance.

1 BY MS. BROWN:
2 **Q. Yep.**
3 A. And talc.
4 **Q. I'm sorry. What's the association**
5 **between smoking and talc?**
6 A. That it increases the risk of mucinous
7 tumors in patients exposed to talc. So maybe I've
8 misspoken. I thought we were talking specifically
9 about only talc.
10 **Q. Okay. I'm just getting a little**
11 **confused.**
12 A. Me too.
13 **Q. Smoking is associated with mucinous**
14 **tumors, correct?**
15 A. Yes.
16 **Q. And as I understood your testimony to**
17 **Ms. Thompson, you do believe that talcum powder is**
18 **associated with mucinous ovarian cancer, correct?**
19 A. That's what I -- I don't think Ms.
20 Thompson asked me that question about mucinous or did
21 you. We were talking about stromal and germ cell.
22 MS. THOMPSON: And -- and --
23 MS. BROWN: No testifying.
24 BY MS. BROWN:
25 **Q. Let me just ask you, because maybe**

1 A. Not at -- not while he was taking care
2 of her.
3 **Q. Ms. Brown also suggested that Dr.**
4 **Schwartz determined that Ms. Converse had an**
5 **undetected genetic mutation that caused ovarian**
6 **cancer.**
7 **Is that an accurate statement?**
8 A. Would you repeat that again in terms
9 of --
10 **Q. Did Dr. Schwartz determine that**
11 **Ms. Converse had an undetected genetic mutation?**
12 A. No, he said he suspected that she may,
13 but he didn't determine that she had a mutation. And
14 nobody else has determined she had a mutation.
15 **Q. Ms. Brown suggested that Dr. Schwartz**
16 **believed that the clear cell carcinoma arose from**
17 **endometriosis.**
18 **Is that accurate?**
19 A. My understanding --
20 MS. BROWN: Form.
21 THE WITNESS: -- that this is an
22 opinion he came to in the middle of the operation
23 with regard to frozen section that came back saying
24 endometrioid, which is not correct. And that's not a
25 fault of the pathologist, it's the best they can do

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1 it's late in the day, we're getting confused.
2 **I understood your testimony to be that**
3 **talcum powder does not cause mucinous epithelial**
4 **ovarian cancer.**
5 **Is that true?**
6 A. I think that's my belief, yes.
7 MS. BROWN: Okay. I have no further
8 questions. Thank you very much.
9 MS. THOMPSON: I'm sorry. I forgot to
10 ask my questions about Ms. Converse.
11 Will you give me permission --
12 MS. BROWN: Go right ahead.
13 MS. THOMPSON: They were on a different
14 page and I missed them.
15 (EXAMINATION OF DR. CLARKE-PEARSON BY MS. THOMPSON:)
16 **Q. I do have a few questions about**
17 **Ms. Converse that I had not covered before.**
18 **Ms. Brown suggested that Dr. Schwartz**
19 **concluded that talcum powder was not a cause of Ms.**
20 **Converse's ovarian cancer.**
21 **Is that an accurate statement?**
22 A. That's not how I understand his
23 deposition.
24 **Q. Did he even know that she used talcum**
25 **powder?**

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1 under the circumstances. But the final pathology
2 report came out clear cell. But there is no evidence
3 that this patient had endometriosis.
4 BY MS. THOMPSON:
5 **Q. And what is the basis for the opinion**
6 **that she does not have endometriosis, did not have**
7 **endometriosis?**
8 A. There is no evidence of endometriosis
9 at the time of surgery when Dr. Schwartz had full
10 exposure to look at all the pelvic tissues.
11 Endometriosis is not a single implant on an ovary
12 that causes cancer. It's implants on pelvic
13 surfaces, what we call peritoneum, whether it's the
14 bladder, rectum, colon, others areas in the pelvis,
15 and does land on the ovaries too, but not just in one
16 spot.
17 So there was no evidence from what he
18 saw outside of her ovary that looked like
19 endometriosis. And the pathologist who looked at the
20 ovary called it a clear cell carcinoma, did not see
21 any endometriosis. So further, she had no past
22 history of any signs or symptoms that would suggest
23 endometriosis.
24 **Q. Ms. Brown suggested that Ms. Converse's**
25 **treating doctors advised her daughter to have**